UNITED STATES PATENT AND TRADEMARK OFFICE

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10/748,589	12/30/2003	Thomas L.C. Simpson	5909HUS BX2009T00943	8944

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EXAMINER
RAPILLO, KRISTINE K

ART UNIT	PAPER NUMBER
3626	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/748,589	SIMPSON ET AL.
	Examiner	Art Unit	
	KRISTINE K. RAPILLO	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 August 2009</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-34</u> is/are pending in the application.

    4a) Of the above claim(s) <u>1-10,12,21-27 and 29</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>11,13-20,28 and 30-34</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>07 November 2008</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>8/6/2004; 7/6/2005; 9/15/2009</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Notice to Applicant

1.   This communication is in response to the Request for Continued Examination (RCE) submitted

August 9, 2009. Claims 11, 13 – 15, 28, and 31 - 32 are amended. Claims 1, 3 – 10, 12, and 24 - 26 are

cancelled (claims 2, 21 – 23, 27, and 29 were previously cancelled). Claims 33 - 34 are new. Claims 11,

13 – 20, 28, and 30 – 34 are presented for examination.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR

1.17(e), was filed in this application after final rejection. Since this application is eligible for continued

examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the

finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's

submission filed on August 9, 2009 has been entered.

Claim Objections

3.   The objection to claim 26 is hereby withdrawn based upon the amendment submitted August 9,

2009.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be
> patented and the prior art are such that the subject matter as a whole would have been obvious
> at the time the invention was made to a person having ordinary skill in the art to which said
> subject matter pertains. Patentability shall not be negatived by the manner in which the invention
> was made.

5.   Claims 11, 14 – 16, 28, and 30 - 34 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Reuss et al., herein after Reuss (U.S. Patent Number 6,364,834) in view of Lebel et al., herein after

Lebel (U.S. Publication Number 2002/0016568 A1).

In regard to claim 11 (Currently Amended), Reuss teaches a system for providing messages to remote clinician devices in a healthcare system comprising:

a first central computer attached to a network (Figures 1 and 2; column 3, line 63 through column 4, line 4; column 4, lines 22 – 41; and column 10, lines 43 – 48) where Reuss discloses a central monitoring system which is equated to a central computer linked to a network;

a second computer attached to the network, wherein the second computer is remote from the first central computer (Abstract and column 3, line 63 through column 4, line 21) where Reuss discloses at least one patient monitoring system (which is a system preferably comprising a transceiver, or transmitter and receiver, a display, and a key board, and can transmit data to and receive monitoring control signals from a central monitoring system (first computer), thus it is implied that a second computer is available and is remote from the first computer;

a remote device associated with the clinician and operably attached to the network, the remote device comprising a visual display (column 3, line 63 through column4, line 64; column 5, lines 13 – 64; and column 15, lines 28 – 40) where Reuss discloses that a remote device may forward information to a central computer;

a request generated by the remote device and received by the first central computer and the second computer (column 4, lines 55 – 60 and column 7, lines 13 – 14) where Reuss discloses bi-directional communication between all components of a system thus a request may be made by any of the components (first computer, second computer, remote device);

a response message generated by the second computer and sent to the first central computer through the network (column 3, liens 45 – 50 and column 16, line 58 through column 17, line 3), and a relayed response message generated by the first central computer and sent to the remote device through the network (column 17, lines 3 – 32). Reuss does not explicitly disclose where the relayed response message generated by the first central computer including the response message generated by the second central computer plus, additional data added by the first central computer, the information including information contained within a data packet generated by an infusion pump, wherein the

information contained within the data packet includes at least one of status information related to an administration of a medication to a patient by the infusion pump and programming information for the infusion pump, however this feature is taught by Lebel and discussed below.

Lebel teaches a system comprising the <u>relayed</u> response message <u>generated by the first central computer</u> including <u>the response message generated by the second central computer plus, additional data added by the first central computer</u> (paragraph 191<u>), the information including</u> information contained within a data packet generated by an infusion pump, wherein the information contained within the data packet includes at least one of status information related to an administration of a medication to a patient by the infusion pump (paragraphs 136 and 207 where feedback is equated to status) and programming information for the infusion pump (paragraphs 187 and 188); and wherein the response message generated by the first central computer is provided in a humanly readable format on the visual display of the remote device (Figure 2 and paragraph 138 where the remote device includes an LCD panel which implies a human readable format).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system comprising the <u>relayed</u> response message <u>generated by the first central computer</u> including <u>the response message generated by the second central computer plus, additional data added by the first central computer, the information including</u> information contained within a data packet generated by an infusion pump, wherein the information contained within the data packet includes at least one of status information related to an administration of a medication to a patient by the infusion pump and programming information for the infusion pump; and wherein the response message generated by the first central computer is provided in a humanly readable format on the visual display of the remote device as taught by Lebel, within the method of Reuss, with the motivation of providing an infusion pump (i.e. medical device) which can detect and report alarm conditions in regard to the delivery of medication (paragraph 198, including table).

In regard to claim 14 (Currently Amended), Reuss and Lebel teach a system as per <u>claim 11</u>. Reuss teaches a system wherein the remote device receives a second response message generated by

the second central computer in response to a second request generated by the remote device, wherein

the second response message and the second request are routed through the first central computer

(column 17, lines 3 – 32).

In regard to claim 15 (Currently Amended), Reuss teaches a system for providing messages to

remote clinician devices in a healthcare system, comprising: a request message generated by a program

within a software application executed by a clinician device attached to a network (column 4, line 55

through column 5, line 12 and column 15, lines 48 - 60) and wherein the first response message includes:

(i) a second response message generated by a second computer in receipt of the request message from

the clinician device (column 3, lines 45 – 50 and column 16, line 58 through column 17, line 3).

Lebel teaches a system comprising: a first response message (paragraphs [0157], [0317],

[0318], and [0332]) generated by a first computer (paragraphs [0110] and [0115]; claims 6 and 15)

attached to the network and sent to the clinician device through the network in response to the request

message wherein the first response message includes: plus (ii) information added by the first computer

(paragraph 191), the information (paragraphs [0317], [0318], and [0332]; Lebel does not specifically

disclose a network, however, this feature is taught by Reuss and is referenced above) including

information contained within a data packet generated by an infusion pump, wherein the information

contained within the data packet includes at least one of status information related to an administration of

a medication to a patient by the infusion pump (paragraphs [0136], [0207], and [0318])and programming

information for the infusion pump (paragraphs [0161], [0162], [0163], [0187], and [0188]).

The motivation to combine the teachings of Reuss and Lebel is discussed in the rejection of claim

11, and incorporated herein.

In regard to claim 16 (Previously Presented), Reuss and Lebel teach a system as per claim 15.

Reuss teaches a system wherein the information is modified in response to a change in the information

contained within another data packet generated by the infusion pump (column 5, lines 13 – 37; column 7,

lines 15 – 58; column 11, lines 15 – 26; column 12, lines 25 – 50; column 14, lines 12 - 33; and, column

16, lines 2 - 15).

In regard to Claim 28 (Currently Amended), Reuss and Lebel teach the system of claim 11.

Lebel teaches a system wherein the response message generated by the first central computer

includes a display icon configured to access a list of a plurality of notification conditions corresponding to

a specific patient from the first central computer (paragraphs [0132], [0138], and [0199] and table).

The motivation to combine the teachings of Lebel and Reuss is discussed in the rejection of claim

11, and incorporated herein.

In regard to Claim 30 (Previously Presented), Reuss and Lebel teach the system of claim 15.

Lebel teaches a system wherein the software application is configured to provide access to a list

of a plurality of active infusion pump alerts associated with a specific patient (paragraphs [0157], [0320],

[0321], and [0323]).

The motivation to combine the teachings of Lebel and Reuss is discussed in the rejection of claim

11, and incorporated herein.

In regard to claim 31 (Currently Amended), Reuss and Lebel teach the system of claim 11.

Reuss teaches wherein the first computer is a central hospital computer (column 6, lines 10 – 35) and the

second computer is a pharmacy computer (column 6, lines 10 – 35) where Reuss discloses an auxiliary

system which may communication with the first computer (central monitoring system) and the auxiliary

system may include patient information such as prescription and pharmacy information, which implies an

auxiliary system may be a pharmacy computer.

In regard to claim 32 (Currently Amended), Reuss and Lebel teach the system of claim 15.

Reuss teaches wherein the first computer is a central hospital computer and the second computer is a

pharmacy computer (column 6, lines 10 – 35).

In regard to claim 33 (New), Reuss and Lebel teach the system of claim 11. Reuss teaches a system wherein the response message generated by the second computer includes patient and pharmacy information (column 6, lines 10 – 35).

In regard to claim 34 (New), Reuss and Lebel teach the system of claim 15. Reuss teaches a system wherein the response message generated by the second computer includes patient and pharmacy information (column 6, lines 10 – 35).

6.   Claims 7, 13, 17 – 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss et al., herein after Reuss (U.S. Patent Number 6,364,834) in view of Lebel et al., herein after Lebel (U.S. Publication Number 2002/0016568 A1) and further in view of Dempsey et al., herein after Dempsey (U.S. Patent Number 6,057,758).

In regard to claim 13 (Currently Amended), Reuss and Lebel teach a system, including a remote device and response message generated by a central computer, as per claim 11.

Dempsey teaches a system wherein said remote device further includes a browser responsive to the response message generated by the first central computer (column 10, lines 36 – 45).

The motivation to combine the teachings of Dempsey, Lebel, and Reuss is discussed in the rejection of claim 7, and incorporated herein.

In regard to claim 17 (Original), Reuss and Lebel teach a system, as per claim 16.

Dempsey teaches a system wherein the program is written in JAVA (column 6, lines 35 - 48).

The motivation to combine the teachings of Dempsey, Lebel, and Reuss is discussed in the rejection of claim 7, and incorporated herein.

In regard to claim 18 (Original), Reuss and Lebel teach a method of executing a notification process as per claim 16.

Dempsey et al. teaches a system wherein the program is written in C# (column 10, lines 38 – 45). C# is also known as C-Sharp. Dempsey et al. discloses an object oriented programming language of which C-Sharp (or C#) is included.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system where the program is written in C# as taught by Dempsey et al. with the motivation of providing a software program which provides an interface with the handheld terminals such as a PDA (column 9, lines 31- 32).

In regard to claim 20 (Original), Reuss and Lebel teach a system, as per claim 15.

Dempsey teaches a system wherein the software application is a Web browser (column 10, lines 36 – 45).

The motivation to combine the teachings of Dempsey, Lebel, and Reuss is discussed in the rejection of claim 7, and incorporated herein.

7.   Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss et al., herein after Reuss (U.S. Patent Number 6,364,834) in view of Lebel et al., herein after Lebel (U.S. Publication Number 2002/0016568 A1) as applied to claim 16 above, and further in view of www.catharsismedical.com (12/9/01).

In regard to claim 19 (Original), Reuss and Lebel teach the system of claim 16.

www.catharsismedical.com teaches a system wherein the program is written in Visual Basic Script (paragraph 6). www.catharsismedical.com uses Windows NT which is a Visual Basic Script.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a system wherein the program is written in Visual Basic Script as taught by

www.catharsismedical.com with the motivation of allowing the infusion pump and hardware to send

messages to a Windows NT server (paragraph 17).

Response to Arguments

8.   Applicant's arguments filed August 11, 2009 have been fully considered but they are not

persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the

response filed August 11, 2009.

        In response to the Applicant's argument, it is respectfully submitted that the Examiner has applied

new passages and new citations to the amended claims. The Examiner notes that the amended

limitations were not in the previously pending claims; as such, Applicant's remarks with the regard to the

application of Reuss, Lebel, Dempsey, and www.catharsismedical.com are addressed in the above Office

Action.

Conclusion

9.   Any inquiry concerning this communication or earlier communications from the examiner should

be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can

normally be reached on Monday to Thursday 6:30 am to 3:30 pm Eastern Time.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry

O'Connor can be reached on 571-272-6787. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/Robert Morgan/
Primary Examiner, Art Unit 3626